

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ROBERT MILLER §
VS. § CIVIL ACTION NO. 1:19cv126
UNIV. OF TEX. MED. BRANCH, ET AL. §

MEMORANDUM OPINION AND ORDER

Robert Miller, an inmate confined in the Skyview Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, brings this civil rights action.

Analysis

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue is controlled by 28 U.S.C. § 1391. *Jones v. Bales*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curiam*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose.

Plaintiff primarily complains of events which occurred at the Hodge Unit, which is located in Cherokee County. Plaintiff's claims concerning such events therefore arose in Cherokee County. Pursuant to 28 U.S.C. § 124, Cherokee County is located in the Eastern District of Texas. As a result, venue regarding plaintiff's claims is proper in this court.

However, while Cherokee County is in the Eastern District of Texas, it is in the Tyler Division, rather than the Beaumont Division. None of the events complained of in this lawsuit appear to have occurred within the Beaumont Division. Nor do any of the defendants reside in the Beaumont Division.

When a case is filed in the wrong division, the court "shall dismiss, or if it be in the interests of justice, transfer such case to any district or division in which it could have been brought." 28

U.S.C. § 1406(a). Accordingly, plaintiff's claims will be transferred to the Tyler Division of this court.

ORDER

For the reasons set forth above, it is **ORDERED** that this matter is transferred to the Tyler Division of this court.

SIGNED this 21st day of May, 2019.



Zack Hawthorn
United States Magistrate Judge